In the Matter of CITY OF LEOMINSTER and its collective bargaining representative the LEOMINSTER SCHOOL COMMITTEE

and

LEOMINSTER ADMINISTRATORS ASSOCIATION

Case Nos. MUP-8528, MUP-8530

* * *

In the Matter of LEOMINSTER SCHOOL COMMITTEE

and

LEOMINSTER SCHOOL SECRETARIES ASSOCIATION

Case No. MUP-8534

* * *

In the Matter of LEOMINSTER SCHOOL COMMITTEE

and

LEOMINSTER EDUCATION ASSOCIATION

Case No. MUP-8535

52.37	bargaining during life of contract on new issues
52.62	matters not covered
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65.9	other interference with union
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67.15	union waiver of bargaining rights
67.42	reneging on prior agreements
67.8	unilateral change by employer
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91.3	parties

August 7, 1996
Robert C. Dumont, Chairman
William J. Dalton, Commissioner
Claudia T. Centomini, Commissioner

Gregory Angelini, Esq.	*Representing the Leominster School Committee and the City of Leominster*
Sheilah McCarthy, Esq.	*Representing the Leominster Administrators Association*
Sandra Quinn, Esq.	*Representing the Leominster Education Association and the Leominster School Secretaries Association*

DECISION[1]

Statement of the Case

On July 23, 1991, the Leominster Administrators Association (the LAA) filed charges with the Labor Relations Commission (the Commission) alleging that the City of Leominster (the City) and the Leominster School Committee (the School Committee) violated Section 10(a)(5) and derivatively, Section 10(a)(1) of Chapter 150E of Massachusetts General Laws (the Law) by failing to bargain in good faith over changes in health insurance benefits (MUP-8528 and MUP-8530). On July 29, 1991, the Leominster Secretaries Association (the LSA) filed a charge with the Commission alleging that the School Committee violated Section 10(a)(5) and derivatively, Section 10(a)(1) of the Law by unilaterally changing the health insurance program available to bargaining unit members (MUP-8534). The Leominster Education Association (the LEA) also filed a charge with the Commission on July 29, 1991, alleging that the School Committee violated Sections 10(a)(5), (6), and derivatively, Section 10(a)(1) of the Law by unilaterally changing the health insurance program available to bargaining unit members (MUP-8535).

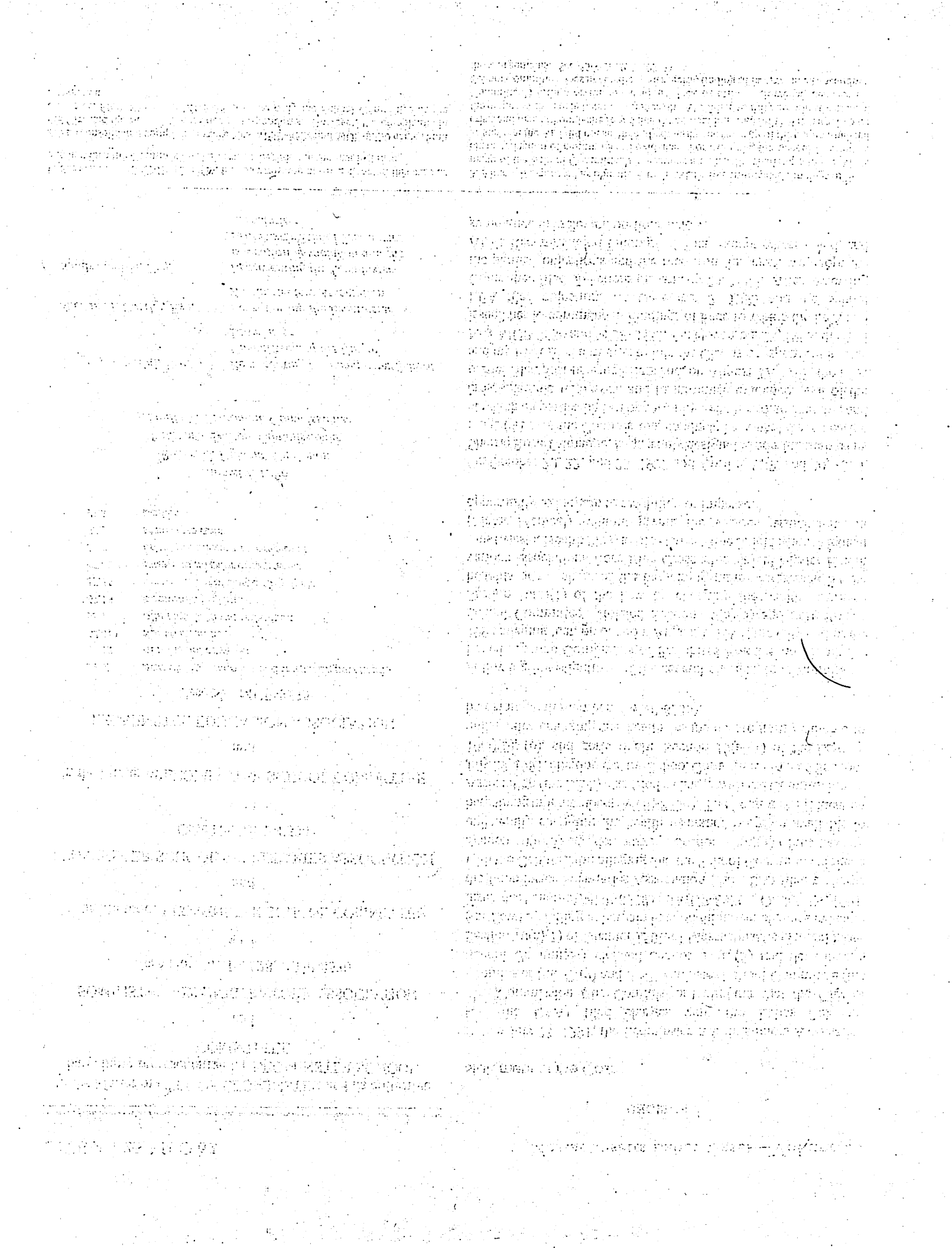
Following investigations of the several charges, the Commission issued separate Complaints of Prohibited Practice on March 26, 1992 alleging that, on or about August 1, 1991, the City and/or the School Committee[2] violated Section 10(a)(5) and derivatively, Section 10(a)(1) of the Law by changing the health insurance benefits of members of the bargaining units represented by the various associations from Blue Cross/Blue Shield Master Health Plus (Master Health Plus) to Blue Cross/Blue Shield Major Medical (Major Medical) without giving the various associations an opportunity to bargain to resolution or impasse.

On October 20, 22, and 23, 1992 and April 5, 8, 9, and 20, 1993, Sherrie Rose Talmadge, Esq., a duly designated administrative law judge (ALJ) of the Commission, conducted a consolidated hearing at which all parties had an opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence. All of the parties filed post-hearing briefs and, on August 27, 1993, the LSA and the LEA filed a motion to join the City as a respondent in case Nos. MUP-8534 and MUP-8535. On November 23, 1993, the ALJ issued her Recommended Findings of Fact, to which the LSA and LEA filed objections on December 7, 1993 and the School Committee filed objections on January 24, 1994. After reviewing the parties' objections and the record in this case, we adopt the ALJ's Recommended Findings of Fact, except where noted, and summarize the relevant portions below.[3]

1. Pursuant to 465 CMR 13.02(1), the Commission has redesignated this case as one in which the Commission shall issue a decision in the first instance.

2. The consolidated complaint in case Nos. MUP-8528 and MUP-8530 names both the City and the School Committee as respondents. However, the complaints in case Nos. MUP-8534 and MUP-8535 name only the School Committee as the respondent.

3. Although expressed as objections to the ALJ's Recommended Findings of Fact, many of the School Committee's objections are actually challenges to the ALJ's characterization of certain record evidence. For example, the School Committee argues that the ALJ did not sufficiently describe the severity of the City's financial crisis and that, although she found that the associations had refused to bargain over the proposed change in health insurance, the ALJ failed to fully describe the School Committee's efforts or the associations' lack of effort. However, because the School Committee does not challenge a specific finding of fact, we need not address those arguments. *See* 456 CMR 13.02(2).



Findings of Fact[4]

Prior to 1988, the City offered its employees, including those represented by the LAA, the LSA and the LEA, Blue Cross/Blue Shield Master Medical (Master Medical), which is an indemnity plan, for which the City contributed 75% toward the cost of the premiums.[5] In 1988, following a recommendation from the Insurance Advisory Committee (IAC), the City changed its indemnity plan from Master Medical to Master Health Plus and added several HMO's, a pre-tax insurance plan, and a dental plan. The City's contribution towards the premiums was 75% of the cost of Master Health Plus, and up to 90% of the cost of an HMO, provided that 90% of the cost of the HMO was not greater than 75% of the cost of Master Health Plus. The City also paid a portion of the dental plan, but the record does not reveal the contribution rate.

The relevant collective bargaining agreements between the School Committee and the associations all provided for health insurance. The agreement between the School Committee and the LAA covering the period September 1, 1989 through August 31, 1992, contained a provision entitled "Health Care Coverage," which stated, in part:

> A. Medical, hospital and life insurance coverage will be provided Unit members exactly as is provided other city employees at a percentage cost similarly required in conformity with Chapter 32B of the Massachusetts General Laws.

Article XXIV of the agreement between the School Committee and the LSA covering the period July 1, 1989 through June 30, 1992, entitled "Sick Leave and Insurance," stated, in part:

> Each employee will be covered under the provisions of the Massachusetts Blue Cross Blue Shield Master Plan and the City will pay 75% of all premiums for such coverage.[6]

Article XXII of the agreement between the School Committee and the LEA covering the period September 1, 1988 through August 31, 1991, entitled "Insurance, Annuity Plan, and Retirement," stated, in part:

> Each employee will be covered under the provisions of the Massachusetts Blue Cross-Blue Shield Master Medical Plan and the Committee will pay seventy-five percent (75%) of all premiums charged for such coverage.[7]

Other than a passing comment during the negotiations for the 1988-1991 agreement between the School Committee and the LEA, none of the parties bargained over health insurance during the negotiations for either the agreements covering that period or predecessor agreements.[8]

In early February 1991, the mayor began to inform the various unions that represented City employees, including those in the School Department, about the City's financial troubles. In summary, the City's local aid receipts were expected to be down $1 million. In addition, the City expected that Chapter 70 aid would be down $575,000, lottery aid would be down $425,000, and local revenues would be down $800,000.

On February 5, 1991, after it had investigated several health plans and HMO's, the IAC recommended that there should be no change from the Master Health Plus plan that was then offered to City employees. In response, the mayor suggested that, due to the seriousness of the City's finances, the City and the unions engage in coalition bargaining over health insurance and that any bargaining occur within a very short time. The unions declined to engage in coalition bargaining.

In letters dated February 18 and 26, 1991 to all the City unions, Gregory Angelini (Angelini), who is the City's labor attorney, explained that due to "devastating financial constraints," the City sought to initiate bargaining over health insurance.[9] In the letter dated February 26, 1991, Angelini asked for a representative from each union to contact him by March 1, 1991 or to expect a telephone call to arrange an initial meeting.

In response, the LAA left a message at Angelini's office indicating that all communication regarding collective bargaining should be directed to Howard Lenow (Lenow), who was the LAA's attorney. In a letter dated February 27, 1991, the LSA indicated that it was "not interested in initiating discussions with the City of Leominster for the purpose of bargaining over [its] current health insurance benefit." Finally, the LEA stated that it was not interested in bargaining over health insurance prior to the successor negotiations that were scheduled to begin in the spring.

On May 14, 1991, the LEA and the School Committee began to bargain over the terms of a successor agreement. At the first meeting, the School Committee indicated that the successor agreement had to be completed by June 30, 1991 and proposed to change the indemnity plan from Master Health Plus to Major Medical.

In mid-May, the City received revised "Cherry Sheet"[10] figures, which showed a $2 million reduction in local aid. The reduction in

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4. The Commission's jurisdiction in this matter is uncontested.

5. The School Committee has no line item in its budget for health insurance premiums, but the City's budget includes the cost of health insurance premiums for all City employees, including those in the School Department.

6. This provision is identical to a provision in the parties' 1986-1989 agreement.

7. This provision is identical to a provision in the parties' 1985-1988 agreement.

8. This finding differs from the ALJ's finding. She found that: 1) there were discussions at the table during the negotiations for the 1988-1991 agreement between the School Committee and the LEA; 2) the City proposed to change the indemnity plan from Master Medical to Master Health Plus; and 3) the LEA agreed and the agreement was modified to reflect the change in health insurance (although the agreement was inadvertently not changed. *See* our discussion, *infra*, at p.12). However, the evidence reveals that: 1) if there was a discussion concerning health insurance during the negotiations, it was in passing; 2) following an IAC recommendation, the City proposed to the LEA (and other City unions) to change the indemnity plan from Master Medical to Master Health Plus; and 3) the LEA, through its executive board and president, and not through the bargaining team that was negotiating the agreement, agreed to the change. Therefore, we have modified the ALJ's findings accordingly.

9. The letter dated February 18, 1991, indicated that the City wished to initiate bargaining "for the purpose of addressing finances, contemplated layoffs, health insurance costs and escalation of costs, as well as any other identifiable impacts likely to face public employees." However, in the letter dated February 26, 1991, the City explained that the initial discussions would be limited to health insurance.

local aid was compounded by the depletion of free cash (which was used, in part, to cover an unexpected $750,000 increase in the premiums for Master Health Plus) and reductions in local revenue. The School Committee's proposed budget of $18.9 million was first reduced to $17.6 million and then to $16.7 million. Finally, after absorbing the unexpected $750,000 increase in the premiums for Master Health Plus in December 1990, the City was facing an additional $1.2 million increase in premiums.

In letters dated May 30, 1991, the School Committee informed the unions representing employees in the school department that, because of the reduction in the School Committee's budget, it was necessary to lay off personnel. The School Committee further explained that, if the School Committee exceeded the City's allowance for health insurance premiums, further layoffs were likely and that a change in the health insurance from Master Health Plus to Major Medical was being contemplated. Finally, the School Committee indicated that meetings had been arranged for June 5 and 10 to discuss the issues, and that, due to the financial reality of the situation, it was imperative that discussions about the changes be completed by June 13, 1991. In response, the LAA (through Lenow) objected to the proposed change and bargaining schedule, but indicated that it would attend the meetings, but not for the purpose of bargaining. The LSA also informed the School Committee that it would attend the meetings, but "for the purpose of listening to discussion" and not for the purpose of bargaining.

Both the LAA and the LSA attended the meetings. The June 5th meeting was purely informational. At the June 10th meeting, the School Committee asked the unions that were present what the School Committee could offer that would be acceptable. The LAA indicated that the drop from Master Health Plus to Major Medical was unacceptable. In response, the School Committee stated that it would look into changing from Master Health Plus to Master Medical. However, the School Committee subsequently informed the LAA that a change from Master Health Plus to Master Medical was not possible. The School Committee scheduled a third meeting for June 26, 1991, but neither the LAA nor the LSA were able to attend. Despite the School Committee's offer to be available at any time, there were no further meetings.

In the meantime, the School Committee and the LEA continued to bargain, meeting on May 21 and 30, June 6, 11, and 19, 1991. At the session on May 30, 1991, the School Committee proposed to include Master Medical and Master Health Plus as part of the health insurance program, with the employees paying the difference in the premiums between those plans and Major Medical.[11] At the close of the June 19, 1991 session, however, the School Committee withdrew its proposal to include Master Medical and announced that the City planned to change the insurance plan from Master Health Plus to Major Medical on July 1, 1991.

In identical letters dated June 27, 1991 to the LAA, the LSA, and the LEA, as well as other unions representing school department employees, the School Committee declared that the School Committee and the unions (except the cafeteria worker's union) were at impasse and announced that the change from Master Health Plus to Major Medical would be implemented on July 1, 1991.[12] In response, the LAA indicated that it viewed any change as a violation and offered to meet on July 24, 1991. However, the LAA filed its charge on July 23, 1991 and the meeting never took place. The School Committee and the LEA, however, continued to bargain over the terms of a successor agreement, meeting on July 10 and 23, 1991.

On August 1, 1991, the City began to require employees who chose Master Health Plus as their indemnity plan to pay 100% of the difference between the cost of Major Medical and the cost of Master Health Plus (an additional $96.68 per month for an individual plan and $214.52 per month for a family plan). The City also began to offer Major Medical, for which it contributed 75% toward the cost of the premiums. Some of the differences between Master Health Plus and Major Medical included the addition of deductibles, a maximum annual catastrophic co-insurance; and a cap on extended lifetime benefits. The City also continued to offer the HMO's, the pre-tax plan, and the dental plan.

Despite the change on August 1, 1991, the School Committee and the LEA continued to bargain over the terms of a successor agreement and, after two mediation sessions in September 1991, the parties reached an agreement that included the change that had been implemented on August 1, 1991.

In addition to the prohibited practice charge at the Commission, the LEA also filed a grievance, alleging that the School Committee violated the parties' collective bargaining agreement by changing the health insurance plan. The LEA alleged, and an arbitrator found, that the word "plus" had inadvertently been omitted from the parties' final 1988-1991 agreement. The School Committee subsequently filed an application in Worcester Superior Court to vacate the award.

Opinion

The Motion to Join the City as Respondents

The Commission will only consider an allegation not contained in a complaint if the issue has been fully and fairly litigated at the hearing. *Commonwealth of Massachusetts*, 18 MLC 1161, 1164 (1991). Full litigation requires that the respondent be given some notice that the subject is at issue, and thus be given an opportunity to present evidence concerning the facts material to the subject. *Whitman Hanson Regional School Committee*, 10 MLC 1606, 1608-9 (1984)(citing *Boston School Committee*, 10 MLC 1410, 1425 (1984)). Here, because the motion to join the City as a

10. The "Cherry Sheet" is the form on which a municipality reports its annual estimated local aid distribution as well as its county and metropolitan assessments (which are provided by the Commissioner of Revenue). Because it was traditionally cherry-colored, the form was referred to as the "Cherry Sheet." Although the one-page form has been replaced by two forms, one cherry and one green, the two forms are still collectively referred to as the "Cherry Sheet."

11. Although the ALJ did not make this finding, it is supported by the record.

12. However, because of complications with changing payroll deductions, the change was not implemented until August 1, 1991.

respondent was not filed until after the record of the hearing was closed, the City was not sufficiently notified that the allegations in case Nos. MUP-8534 and MUP-8535 were directed at the City as well as the School Committee. Therefore, the City was not given an opportunity to present evidence in its defense. Accordingly, we find that the City did not have a full and fair opportunity to litigate the issues presented in the complaints, and the motion to join the City as a respondent in case Nos. MUP-8534 and MUP-8535 is denied.

Unilateral Change in Health Insurance

It is well-settled, and the School Committee does not contest, that health insurance benefits are mandatory subjects of bargaining. *See, e.g., Town of Ludlow*, 17 MLC 1191 (1990). Further, the School Committee does not allege that the parties had bargained to resolution prior to the change. Therefore, the question presented by these consolidated cases is whether the School Committee was entitled to implement its proposal to change the health insurance benefits offered to its employees, notwithstanding the fact that the parties had not bargained to resolution.

Included in the obligation to bargain in good faith is the employer's obligation to provide the exclusive collective bargaining representative notice and an opportunity to bargain before implementing decisions that affect mandatory subjects of bargaining. *See Town of Randolph*, 8 MLC 2044 (1982). The notice that is required is actual, as opposed to rumor or speculation and must be sufficiently clear for the union to make a judgment as to an appropriate response. *Boston School Committee*, 4 MLC 1912 (1978). Here, although the associations learned in February 1991 that the City was in financial difficulty and sought to discuss health insurance, the associations did not learn until they received the letters from the School Committee dated May 30, 1991 that the City had proposed to change its indemnity plan from Master Health Plus to Major Medical. Further, the letter dated February 26, 1991, ended with the statement:

> Please contact me by Friday, March 1, 1991, or expect a telephone call to arrange an initial meeting if you or your representative has not already done so.

Despite that statement, neither the City nor the School Committee followed up the February 26 letter. Therefore, we find that, because the letters dated February 18 and 26, 1991, contained no proposal or otherwise notified the associations that the City intended to change its indemnity plan, the associations did not receive notice of the contemplated change in February 1991. Further, with the exception of the LEA, who was presented with a proposal to change the insurance plan at the successor agreement bargaining session on May 14, 1991, the associations did not receive actual notice of the proposed change until it received the School Committee's letter dated May 30, 1991.

The LEA

The School Committee argues that, because the 1988-1991 agreement between the School Committee and the LEA does not contain a clear health insurance provision, the School Committee was not prohibited from insisting on mid-term bargaining over health insurance. The School Committee further argues that, although it also proposed the change during successor bargaining, it did so only in an attempt to resolve the matter. Therefore, because the LEA refused to bargain over health insurance in the context of mid-term bargaining, it waived its right to bargain. In the alternative, the School Committee argues that the parties had bargained to impasse.

A party to a collective bargaining agreement need not bargain over subjects that were part of the bargain when the parties negotiated the agreement. *City of Salem*, 5 MLC 1433 (1978); *See also Jacobs Mfg. Co.*, 94 NLRB 1214, 28 LRRM 1102 (1951). What constitutes part of the bargain are those matters embodied in the agreement, and those that were consciously explored and consciously yielded during bargaining. *Id.*; *See also Press Co., Inc.*, 121 NLRB 976, 42 LRRM 1493 (1958). Therefore, the threshold inquiry here is whether the option of Master Health Plus, for which the City paid 75% of the premiums, was part of the bargain in the agreement between the School Committee and the LEA.

The 1988-1991 agreement between the School Committee and the LEA specified that employees will be covered by the "Blue Cross-Blue Shield Master Medical Plan," and does not reference the other components of the City's health insurance program. That language is identical to the language contained in the parties' prior agreement, despite the fact that during the summer of 1988—prior to the execution of the 1988-1991 agreement—the City changed the indemnity plan from Master Medical to Master Health Plus and added the HMO's, the pre-tax plan, and the dental plan. Finally, the record reveals that, other than a passing comment during the negotiations for the 1989-1991 agreement, the School Committee did not bargain with the LEA over health insurance.

Therefore, we do not find that offering or continuing to offer Master Health Plus, for which the City contributed 75% of the cost of the premiums, to members of the bargaining unit represented by the LEA was part of the bargain in the parties' 1988-1991 agreement.[13] Accordingly, we find that the health insurance program offered to employees, and, more specifically, the indemnity plan that was offered as part of that program, for which the City paid 75% of the premiums, was a proper subject for bargaining during the term of the agreement.

In response to the City's letters dated February 18 and 26, 1991, however, the LEA informed the City that it was not interested in bargaining over health insurance prior to the successor negotiations that were scheduled to begin in the spring. In *Town of Brookline*,

13. The LEA argues that, because an arbitrator found that the omission of the word "plus" in the parties' 1988-1991 agreement was inadvertent, the parties' agreement requires the School Committee to offer Master Health Plus to employees in the bargaining unit represented by the LEA. However, because the arbitrator's decision is not part of the record we cannot determine if deferral to that finding would be appropriate. Accordingly, we decline to defer the issue concerning whether the parties' 1988-1991 agreement requires the School Committee to offer Master Health Plus to employees in the bargaining unit represented by the LEA. *Compare Town of Brookline*, 20 MLC 1570 (1994).

20 MLC 1570 (1994), we indicated that, even if a particular matter was not covered by the agreement, an employer may not insist on mid-term bargaining "during the time that the parties historically [engage] in bargaining for a successor contract." 20 MLC at 1596, n.20. Although, here, there is no evidence in the record concerning when the parties historically engage in bargaining for a successor agreement, when the School Committee presented its proposal on May 14, 1991, the parties were actually engaged in bargaining for a successor agreement. Further, the School Committee has failed to establish that the circumstances required bargaining over health insurance apart from the successor negotiations.[14] Accordingly, we find that the School Committee could not lawfully insist that the parties bargain over the proposed change in the indemnity plan apart from the successor negotiations.[15]

We next turn to the School Committee's argument that the parties had bargained to impasse prior to the change. After good faith negotiations have exhausted the prospects of an agreement, an employer may implement changes that are reasonably comprehended in its pre-impasse proposals. *Hanson School Committee*, 5 MLC 1671 (1979). The factors traditionally considered in determining whether an impasse exists include: 1) the importance of the issues to which there is disagreement; 2) the good faith of the parties; 3) the length of the negotiations; and 4) the contemporaneous understandings of the parties as to the state of the negotiations. *Commonwealth of Massachusetts* (Unit 6), 8 MLC 1499 (1981). Here, although the School Committee alleges that it had bargained to impasse with the LEA over the proposed change in the indemnity plan, it does not allege that the parties had bargained to impasse over all the outstanding issues in its negotiations for a successor agreement. Therefore, because as explained above the School Committee could not insist on bargaining over the proposed change in the indemnity plan apart from the successor negotiations, we find that the School Committee had not bargained to impasse before announcing the change in health insurance plans.

The LAA and the LSA

Like the LEA, the LSA and the LAA had agreements with the School Committee that included health insurance provisions. For the reasons set forth above, we find that the health insurance program offered to employees represented by the LSA and the LAA, and, more specifically, the indemnity plan that was offered as part of that program, for which the City paid 75% of the premiums, was a proper subject for bargaining during the term of the agreement. However, unlike the LEA, neither the LAA nor the LSA were scheduled to engage in successor negotiations during the spring of 1991.

In response to the School Committee's letter dated May 30, 1991, LSA president Sandra Quirk (Quirk) stated that she would attend the meetings scheduled for June 5 and 10, 1991 "for the purpose of listening to discussion. However, in no way is this attendance as a representative of the Leominister School Secretaries Association to be construed as participation in any impact bargaining format." The LAA went a step further. In a letter to the superintendent dated June 3, 1991, Lenow objected to the timing of the announcement of the proposed changes, stating:

> Your letter dated May 30, 1991 sets up impossible time limitations within which to discuss the options you have presented. Your failure to seek meaningful negotiations prior to the proposed dates makes it impossible to explore other health care options which might be more beneficial to the administrators.

The School Committee argues that, by their conduct, the LAA and the LSA waived their rights to bargain over the proposed change in the indemnity plan or, in the alternative, that the parties had bargained to impasse. The affirmative defense of waiver by inaction must be supported by evidence of actual knowledge of the proposed change, a reasonable opportunity to negotiate over the change, and an unreasonable or unexplained failure of the union to bargain or request bargaining. *Commonwealth of Massachusetts*, 8 MLC 1894 (1982). Here, the LAA and the LSA were presented with a proposal to change the indemnity plan that included two dates for bargaining that had been established by the School Committee and a two-week deadline by which bargaining had to have been completed. Then, after looking into and rejecting a suggestion made by the LAA at the second meeting, the School Committee scheduled an additional meeting. Although neither the LAA nor the LSA were able to attend the third meeting, the School Committee declared impasse the next day. Under these facts, we do not consider two meetings to be sufficient to establish that the parties had bargained to impasse. Further, despite the School Committee's offer to be available at any time, we find that, because the School Committee required that the discussions about its proposed changes be completed by June 13, 1991, neither the LAA nor the LSA had a sufficient opportunity to bargain. Accordingly, we find that neither the LAA nor the LSA waived its right to bargain over the School Committee's proposal and the parties had not bargained to impasse.

The School Committee's Defense of Emergency

The School Committee argues that, due to the severe fiscal emergency in the City, it was permitted to set a "fair deadline" for completing bargaining. An employer who argues that, due to circumstances beyond its control, it had no choice but to implement its proposed changes by a particular time has the burden of establishing that the union was put on notice that the change would be implemented at a particular time and that the deadline was reasonable under all the circumstances. *New Bedford School Committee*, 8 MLC 1472 (1981). Here, the evidence reveals that the City was aware of its fiscal difficulties in February 1991, but, other than to notify the associations that it sought to discuss health insurance, neither the City nor the School Committee took any

14. See our discussion concerning the School Committee's defense of emergency, *infra*, at p.21.

15. The School Committee argues that, although it had presented its health insurance proposal during successor negotiations, it continued to maintain that it could lawfully insist on mid-term bargaining. Therefore, its efforts to resolve the matter through bargaining should not be construed as accepting the LEA's position. We find that argument to be unpersuasive.

further action to initiate bargaining: it offered no proposals and failed to follow up as promised in its letter dated February 26, 1991. Therefore, we find that the School Committee has failed to establish that it put the Associations on notice that a specific change would be implemented at a particular time and that the deadline was reasonable under all the circumstances. *Compare, Middlesex County Commissioners*, 9 MLC 1579 (1983)(no violation where employer notified union four months in advance that, because of the enactment of proposition 2 1/2, it would be forced to lay off members of the bargaining unit on very short notice and union did not request bargaining until after layoffs were announced).

The LAA's and LEA's Repudiation Argument

Finally, the LAA and the LEA argue that, by changing the indemnity plan, the School Committee also repudiated the parties' collective bargaining agreements. However, because we have found that the School Committee violated the Law by unilaterally changing the contribution rate for Master Health Plus, we do not reach the issue of whether the School Committee's conduct also was a repudiation of the parties' collective bargaining agreements. *See, City of Everett*, 19 MLC 1304, 1315, n.20 (1992).

Conclusion

For the reasons set forth above, we find that the City and the School Committee violated Section 10(a)(5) and derivatively, Section 10(a)(1) of the Law by unilaterally changing the health insurance benefits it offered to members of the bargaining unit represented by the LAA by requiring employees who choose Master Health Plus as their indemnity plan to pay 100% of the difference between the cost of Major Medical and the cost of Master Health Plus without bargaining with the LAA to resolution or impasse. We also find that the School Committee violated Section 10(a)(5) and, derivatively, Section 10(a)(1) of the Law by unilaterally changing the health insurance benefits it offered to members of the bargaining unit represented by the LEA and the LSA by requiring employees who choose Master Health Plus as their indemnity plan to pay 100% of the difference between the cost of Major Medical and the cost of Master Health Plus without bargaining with the LEA and the LSA to resolution or impasse. We dismiss that portion of the LAA's and LEA's theory that the School Committee also repudiated the parties' collective bargaining agreements.

Remedy

The record reveals that the School Committee and the LEA have successfully bargained to resolution over the School Committee's proposal to change the health insurance offered to bargaining unit members. Therefore, our remedy concerning the LEA is limited to the period between the implementation of the unilateral change and the effective date of the parties' agreement.

Order

WHEREFORE, on the basis of the foregoing, IT IS HEREBY ORDERED that the City of Leominister and the Leominster School Committee:

1. Cease and desist from:

a) unilaterally changing the health insurance benefits it offered to members of the bargaining unit represented by the Leominster Administrators Association by requiring employees who choose Master Health Plus as their indemnity plan to pay 100% of the difference between the cost of Major Medical and the cost of Master Health Plus without bargaining with the Leominster Administrators Association to resolution or impasse.

b) In any similar manner interfering with, restraining, or coercing employees in the exercise of their rights under the Law.

2. Take the following affirmative action which will effectuate the purposes of the Law.

a) Restore the practice of contributing 75% of the premiums for Master Health Plus for employees in the bargaining unit represented by the Leominster Administrators Association.

b) Upon request, bargain with the Leominister Administrators Association in good faith to resolution or impasse before implementing any change in health insurance plans.

c) Make whole any employees for any losses suffered as a result of the City of Leominster's and/or Leominster School Committee's unlawful implementation of a change in health insurance benefits, plus interest on any sums owing at the rate specified in M.G.L. c.321, s.6B, compounded quarterly.

d) Sign and post immediately in conspicuous places where employees usually congregate or where notices are usually posted, and maintain for a period of thirty (30) days thereafter, copies of the attached Notice to Employees.

e) Notify the Commission within thirty (30) days of receiving this decision of the steps taken to comply herewith.

IT IS FURTHER ORDERED that the Leominister School Committee:

1. Cease and desist from:

a) unilaterally changing the health insurance benefits it offered to members of the bargaining unit represented by the Leominster Secretaries Association by requiring employees who choose Master Health Plus as their indemnity plan to pay 100% of the difference between the cost of Major Medical and the cost of Master Health Plus without bargaining with the Leominster Secretaries Association to resolution or impasse.

b) In any similar manner interfering with, restraining, or coercing employees in the exercise of their rights under the Law.

2. Take the following affirmative action which will effectuate the purposes of the Law.

a) Restore the practice of contributing 75% of the premiums for Master Health Plus for employees in the bargaining unit represented by the Leominster Secretaries Association.

b) Upon request, bargain with the Leominister Secretaries Association in good faith to resolution or impasse before implementing any change in health insurance plans.

c) Make whole any employees for any losses suffered as a result of the City of Leominster's and/or Leominster School Committee's unlawful implementation of a change in health insurance benefits, plus interest on any sums owing at the rate specified in M.G.L. c.321, s.6B, compounded quarterly.

d) Sign and post immediately in conspicuous places where employees usually congregate or where notices are usually posted, and maintain for a period of thirty (30) days thereafter, copies of the attached Notice to Employees.

e) Notify the Commission within thirty (30) days of receiving this decision of the steps taken to comply herewith.

IT IS FURTHER ORDERED that the Leominister School Committee:

1. Cease and desist from:

a) unilaterally changing the health insurance benefits it offered to members of the bargaining unit represented by the Leominster Education Association by requiring employees who choose Master Health Plus as their indemnity plan to pay 100% of the difference between the cost of Major Medical and the cost of Master Health Plus without bargaining with the Leominster Education Association to resolution or impasse.

b) In any similar manner interfering with, restraining, or coercing employees in the exercise of their rights under the Law.

2. Take the following affirmative action which will effectuate the purposes of the Law.

a) Restore the practice of contributing 75% of the premiums for Master Health Plus for employees in the bargaining unit represented by the Leominister Education Association.

b) Make whole any employees for any losses suffered as a result of the City of Leominster's and/or Leominster School Committee's unlawful implementation of a change in health insurance benefits, plus interest on any sums owing at the rate specified in M.G.L. c.321, s.6B, compounded quarterly.

c) Sign and post immediately in conspicuous places where employees usually congregate or where notices are usually posted, and maintain for a period of thirty (30) days thereafter, copies of the attached Notice to Employees.

d) Notify the Commission within thirty (30) days of receiving this decision of the steps taken to comply herewith.

SO ORDERED.

NOTICE TO EMPLOYEES

The Massachusetts Labor Relations Commission (Commission) has determined that the City of Leominister (the City) and the Leominster School Committee (the School Committee) violated Sections 10(a)(5) and (1) of General Laws, Chapter 150E, the Public Employee Collective Bargaining Law (the Law) by changing the health insurance benefits it offered to employees in the bargaining unit represented by the Leominster Administrators Association by requiring employees who choose Blue Cross/Blue Shield Master Health Plus as their indemnity plan to pay 100% of the difference between the cost of Blue Cross/Blue Shield Major Medical and the cost of Blue Cross/Blue Shield Master Health Plus, without giving the Leominster Administrators Association an opportunity to bargain to resolution or impasse.

We hereby assure our employees that:

We will not unilaterally change health insurance benefits without giving the Leominster Administrators Association an opportunity to bargain to resolution or impasse.

We will not in any similar manner interfere with, restrain, or coerce any employees in the exercise or their rights protected under the Law.

We will restore the practice of contributing 75% of the premiums for Blue Cross/Blue Shield Master Health Plus.

We will make whole any employees for any losses suffered as a result of the City's and/or School Committee's unlawful change in health insurance benefits, plus interest.

We will, upon request, bargain with the Leominster Administrators Association in good faith to resolution or impasse before implementing any change health insurance benefits.

[signed]
City of Leominster Leominster School Committee

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